

APPEAL NO. 991017

Following a contested case hearing (CCH) held in Fort Worth, Texas, on April 5, 1999, pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act), the hearing officer, resolved the sole disputed issue by determining that the compensable hip injury sustained by the respondent (claimant) on _____, extends to his right hand carpal tunnel syndrome (CTS) due to his extensive use of a cane or crutches. The appellant (carrier) has appealed on evidentiary grounds, asserting that the CTS injury is from claimant's overuse of his right wrist and did not occur until some five years after claimant's hip injury. The file does not contain a response from claimant.

DECISION

Affirmed.

Not appealed is the finding that claimant sustained a compensable injury to his hip on _____, which necessitated the use of a cane or crutches. Claimant testified that on _____, while at work for (employer), a young boy being chased through the store by his brother hit him in the hip with a shopping cart; that he had previously undergone a left hip replacement and the blow from the shopping cart loosened the hip prosthesis; and that his doctor decided against revision surgery on the hip and advised him to learn to walk with it in the hope that the prosthesis would tighten over time. Claimant stated that from about mid-1994 to the date of the hearing, he had to use "Canadian crutches," which he explained were short arm crutches, and, apparently later, a cane; that the crutches and cane were prescribed; and that about three months before the CCH, he began to have right hand pain and Dr. M diagnosed acute CTS and told him it was caused by his continuous use of the cane on the right or off side. Claimant also mentioned that Dr. M said an EMG was needed but that it had not yet been authorized.

Dr. O report of June 13, 1995, which assigned a 16% impairment rating for the left hip injury and no rating for claimant's CTS, stated that he did not believe that the bilateral CTS is secondary to the injury, although claimant feels it is secondary to his use of crutches necessitated by the injury. Dr. O further stated that he thought that extensive use of crutches would be necessary for the development of a cumulative trauma disorder such as CTS.

Dr. M wrote on July 23, 1997, that he has been treating claimant since August 15, 1995, for left hip pain; that claimant has moderate control of his pain with an implanted morphine pump; and that claimant is considered totally disabled. Dr. M reported on November 19, 1998, that claimant sustained injuries to the back, left hip, and wrist in the work-related injury; that he had bilateral CTS with a history of injections into the carpal canal at that time; that, since that time, claimant has used a cane required for his workplace injury which has aggravated his symptoms involving the right carpal tunnel; and that an EMG of the right upper extremity is necessary. Dr. M wrote on January 13, 1999, that

claimant has chronic severe hip pain which is directly related to a workplace injury; that the hip pain has necessitated the chronic use of a cane and, clearly, this is the cause of a secondary CTS; and that, therefore, the CTS is related to the initial workplace injury and subsequently required treatment.

The hearing officer found that claimant sustained a compensable injury to his hip on _____, which necessitated the use of a cane or crutches; that he developed CTS as a result of the extensive use of the cane or crutches; and that his CTS flowed naturally and directly from the original compensable injury to his hip which required the use of a cane or crutches. She concluded that the compensable injury extends to an injury to his right hand. Claimant had the burden of proof on the disputed issue which presented the hearing officer with a question of fact to determine. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). The Appeals Panel does not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The hearing officer's discussion cites and relies on Texas Workers' Compensation Commission Appeal No. 951108, decided August 23, 1995. In that case, the hearing officer determined that the employee's fall at home, while using a walker to keep the weight off her healing leg bone fractured in a fall at work, was an injury sustained in the course of the medical treatment of the compensable injury and, thus, was part of the compensable injury. That decision cited Maryland Casualty Company v. Sosa, 425 S.W.2d 871 (Tex. Civ. App.-San Antonio 1968, writ ref'd n.r.e. *per curia* 432 S.W.2d 515) for the proposition that an employee who sustains a specific compensable injury is not limited to compensation for that specific injury if such injury, or proper or necessary treatment therefor, causes other injuries which render the employee incapable of work. We agree with the hearing officer that the decision in Appeal No. 951108 is dispositive of this case.

The decision and order of the hearing officer are affirmed.

Philip F. O'Neill
Appeals Judge

CONCUR:

Tommy W. Lueders
Appeals Judge

Elaine M. Chaney
Appeals Judge